

UNITED DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

WILLIAM M. CAMPBELL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 2:11CV00079 (AGF/TIA)
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Terry I. Adelman (Doc. No. 18), pursuant to 28 U.S.C. § 636(b), regarding Defendant’s unopposed motion to remand this Social Security disability case pursuant to sentence six of 42 U.S.C. § 405(g).

On November 5, 2007, Claimant filed an application for Disability Insurance Benefits under Title II of the Act, 42 U.S.C. §§ 401 et. seq. (Tr. 75-82) alleging disability since October 20, 2006 due to fractured left ankle, back injury, fused neck, and spider bite. (Tr. 129). Following a hearing, the Administrative Law Judge (ALJ), in a decision dated September 11, 2009, found that Claimant was not disabled prior to December 31, 2008, but became disabled on that date and has continued to be disabled through the date of the decision. The Appeals Council denied Claimant’s Request for Review and the ALJ’s decision stands as the final decision of the Commissioner. On October 25, 2011, Claimant filed this action for judicial review of the Commissioner’s final decision and

produced new evidence that was submitted to Defendant but not incorporated into the record before the ALJ at the time of his September 11, 2009 decision. On March 8, 2012, Defendant filed the instant Motion to Reverse and Remand (Doc. No. 17) requesting that the Court reverse the ALJ's decision and remand the action to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g). The motion recites that the parties agree that the additional evidence meets the statutory requirements for remand pursuant to sentence six of 42 U.S.C. § 405(g),<sup>1</sup> inasmuch as Claimant submitted new, material evidence and has "good cause" for the omission of the evidence because it was omitted from the administrative record due to agency error.

On March 16, 2012, the Magistrate Judge issued an R&R recommending that the Motion be granted. Plaintiff has not objected to the R&R, and the time to do so has expired. Upon review of the Magistrate Judge's R&R with respect to the Motion to Reverse and Remand, the Court concludes that reversal and remand under sentence six of 42 U.S.C. § 405(g) is warranted.

On remand, the ALJ should consider whether Claimant was disabled from his alleged onset date through December 30, 2008 and incorporate in the administrative record the evidence dated March 16, 2009 from Garth S. Russell, M.D. The ALJ will

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<sup>1</sup> Sentence six provides in relevant part as follows:

The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security. . . .

evaluate the evidence and reconcile it with the RFC assessment. If deemed necessary, the ALJ may seek clarification of Dr. Russell's statements and obtain any objective evidence from the relevant period at issue to support Dr. Russell's assessment and obtain additional medical and vocational expert testimony. Thereafter, Claimant will be provided the opportunity to appear at a hearing and provide any additional relevant medical evidence.

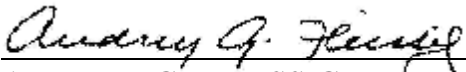
Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation of the Magistrate Judge (Doc. No. 18) is adopted and incorporated herein.

**IT IS FURTHER ORDERED** that Defendant's motion to reverse and remand is **GRANTED**. (Doc. No. 17)

**IT IS FURTHER ORDERED** that the decision of the Commissioner in this matter is **REVERSED AND REMANDED** to the Commissioner pursuant to sentence six of 42 U.S.C. § 405(g) for further consideration.

A separate Judgment shall accompany this Memorandum and Order.

  
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AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 4th day of April, 2012.